

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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Citizens of Minnesota,

Court File. No. 27-CV-03-09-10

Plaintiffs,

v.

**ORDER TO ENJOIN**

Minnesota Meteorologists, Old Man Winter,  
and Mr. Snow,

Defendants.

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The above entitled matter came on before the Court on March 7, 2019. The Plaintiffs filed an ex parte emergency motion with respect to the Defendants Minnesota Meteorologists, Old Man Winter, and Mr. Snow. The Plaintiffs Citizens of Minnesota appeared through attorneys from the law firm of Sue, Grabit, and Run.

Based upon the file, record, and proceedings,

**IT IS HEREBY ORDERED that:**

The Plaintiffs's Motion for Temporary Restraining Order is **GRANTED**. The Defendants are enjoined from permitting any more snowfall this winter in the "Restricted Geographic Regions" of Minnesota; and especially within Hennepin County. This does not prohibit the Defendants from continuing their exploits in Wisconsin, Iowa, South Dakota, and North Dakota.

BY THE COURT:

Dated: March 7, 2019

  
\_\_\_\_\_  
Kevin S. Burke  
Judge of District Court

The National Weather Service says a “major winter storm” is likely to hit the Twin Cities this weekend. While the exact track of the storm remains to be seen, there is a high risk for the Twin Cities to see heavy snow. Some areas could see blowing snow Saturday night into Sunday and there could be significant travel impacts, the weather service warns.

This order tests the limits of judicial authority. But it is not a reflexive or petulant act by a frustrated judge. That would be entirely inappropriate. This order is issued because of Article I Section 8 of the Minnesota Constitution, states in relevant part, “Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive.....”

Frankly, this Court was skeptical when this request for a temporary injunction was filed. There was the significant issue of lack of service pursuant to Minnesota Rule of Civil Procedure 65.01. However, the attorneys for the Plaintiffs have established that notice to the Defendants will cause immediate and irreparable injury, loss and damage to the Plaintiffs. Simply put, notice of the request for a temporary restraining order would likely result in yet another blizzard, more frigid cold weather, and enhanced ice dams throughout Minnesota.

In deciding whether a temporary injunction should issue, Minnesota law provides that courts consider the five *Dahlberg* factors. These factors consider: (1) the nature and relationship of the parties; (2) the balance of relative harm between the parties; (3) the likelihood of success on the merits; (4) public policy considerations; and (5) any administrative burden involving judicial supervision and enforcement. See *Dahlberg Bros., Inc. v. Ford Motor Co.*, 137 N.W.2d 314, 321-22 (Minn. 1965). Fairly applying

the factors in *Dahlberg* leads to the indubitable conclusion that temporary relief should be granted.

Factors 1 in the *Dahlberg* analysis is established. Minnesotans are hardy people. They enjoy their winters and have a good relationship with the Defendants. But there comes a point when the trust between the parties is ruptured. The Defendants have a fiduciary duty to the Plaintiffs not to overdo it. Nothing illustrates this better than the statement from Defendant Paul Douglas in today's Star Tribune: "There are times I look out the nearest window and wonder (out loud) if all this snow will ever melt. I have 15 foot snow piles next to my driveway. I've run out of places to push the snow."

Similarly, factor 2 – the balance of harm between the parties – is heavily weighted in favor of the plaintiffs. Mr. Snow can dump all the snow it wants on the neighboring states of Wisconsin (particularly the City of Green Bay), Iowa, South Dakota and North Dakota. And the Minnesota Meteorologists' First Amendment rights are fully protected. They can report just how miserable the citizens of the neighboring states (and particularly the citizens of Green Bay, Wisconsin) are likely to be for the rest of this winter, spring and summer if there is any more snow.

Factor 3 is also established. Simply put, no jury is going to find in favor of the defendants absent a change of venue of this case to Arizona or Florida. And that is not going to happen.

Factor 4 – "public policy considerations" – is the most troubling aspect of this decision. There will be those who question the authority of this Court. It is plausible that this Court will be seen as an out of control judicial activist. Judge Learned Hand once said, "The spirit of liberty is the spirit which is not too sure that it is right." This Order is

issued because there is compelling evidence in the record that Minnesota Meteorologists have conspired with the other Defendants to increase television and radio ratings. Who, for example, would watch the weather in Hawaii where it is always nice?